

**Kei mua i Te Rōpu Whakamana
i Te Tiriti o Waitangi
Remaining Historical Claims Inquiry**

**Wai 2800
Wai 1490**

I te take o Te Ture o Te Tiriti o Waitangi 1975

Ā

I te take o The Remaining Historical Claims Inquiry
(Wai 2800)

Ā

I te take o The Claim of Mario William Hori Te Pa,
Tanua Helen Rose and Maria Rakapa
Tukapua-Lomax on behalf of themselves
and the descendants of Whanokirangi
(Wai 1490)

Memorandum of Counsel

Dated 9 September 2019



Counsel Acting: Cameron Hockly & Brooke Loader



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May it please the Tribunal

1. This Memorandum of Counsel is filed on behalf of Mario William Hori Te Pa, Tanua Helen Rose and Maria Rakapa Tukapua-Lomax (the Claimants) on behalf of themselves and the descendants of Whanokirangi (Wai 1490) (the Claim).

Background to the Wai 1490 Claim

2. A statement of claim for Wai 1490 was first filed by the Claimants in May 2008.¹
3. An amended statement of claim was filed on the 21st of August 2009.²
4. A version of an amendment statement of claim was filed by Fred Hill as claims co-ordinator for these Claimants and the claimants for Wai 623 and Wai 624 on the 31st of August 2015 in the Wai 2200 Porirua ki Manawatū Inquiry.³
5. While it was filed out of time it was received by the Tribunal pending submissions from the Crown. The Crown responded stating some concerns about that amendment, but concluded that “Should the Tribunal determine this is a legitimate amendment of the earlier Wai 1490 claim, the Crown makes no submissions as to whether the Tribunal ought to accept it for registration despite it being filed outside of the time directed by the Tribunal for the filing of first amended statements of claim.”⁴
6. It appears that the amendment was not registered in that Inquiry following the subsequent decision of the Presiding Officer.⁵
7. Notice has been given in that Inquiry to participate for the issues in the claim relate to that Inquiry district.
8. However, the scope of the claim, made on behalf of Whanokirangi, a hapū of Muaūpoko and named after the Muaūpoko tupuna Whanokirangi, who was a descendant of Tara, extends well beyond the scope of that Inquiry.
9. The Claim details connections to Te Whanganui-a-Tara and northern parts of Te Waipounamu, both of which are part of the proposed Wai 2800 Remaining Historical Claims Inquiry.⁶

¹ Wai 1490, #1.1.1, *Statement of Claim filed by the Claimants*, dated May 2008, received by the Tribunal on the 29th of July 2008.

² Wai 1490, #1.1.1(a), *Statement of Claim dated 21 August 2009*, received by the Tribunal on the 17th of June 2010.

³ Wai 2200, #2.5.118, *Memorandum Directions of the Presiding Officer*, dated 11 September 2015.

⁴ Wai 2200, #3.1.781, *Crown Memorandum*, dated 16 September 2015.

⁵ Wai 2200, #2.5.122, *Memorandum Directions of the Presiding Officer*, dated 28 September 2015.

⁶ Wai 2800, #2.5.1(a) *Map of the Included Inquiry District*, and also #2.5.1 *Memorandum Directions* dated 6 September 2018 (18-22).

10. For these reasons, the Claimant wishes to participate fully in this Inquiry.

Eligibility

11. This Claim focusses entirely on historical issues prior to 1992. This Claim did not participate in those other inquiries that dealt with issues in the rohe of Te Whanganui-a-Tara or the northern part of Te Wai Pounamu.

12. This Claim has not been settled in any respect.

13. While part of the claim does sit within the Porirua ki Manawatū Inquiry district, that Inquiry has indicated that it will not be considering claim issues in areas that fall as far from its Inquiry district boundary as Te Whanganui-a-Tara,⁷ so this Claim does cannot deal with those issues that relate to these rohe in the Porirua ki Manawatu Inquiry.

14. This Claim does not feature on the list of those potentially eligible to participate in this Inquiry, nor on the list of those not eligible for inclusion.⁸

Leave sought to file out of time

15. The initial deadline for the filing of submissions for participation in this inquiry was the 28th of December 2018.

16. This Claim was not actively participating in any Inquiry at that time, nor represented by legal counsel.

17. The Claimants have only now become aware of this Inquiry and the planning underway for it.

18. It is respectfully requested that leave should be granted to permit the filing of this memorandum and these submissions setting out the grounds for inclusion of the Claim in this Inquiry, and finally to allow the Claim to join this Inquiry, Reasons that support allowing the leave sought are as follows.

19. The Claim falls squarely within two of the rohe described for this Inquiry; Te Whanganui-a-Tara/Wellington and Te Tau Ihu/Northern South Island. An assessment of the original statement of claim, filed in May 2008, shows that this Claim details claim issues in those rohe prior to any form or amendment or update. The Claim did not participate in any Inquiries in those rohe, and is not a party to any settlement with any group within those rohe.

20. This Inquiry has not yet begun in earnest, and the addition of this Claim will not fundamentally disrupt any developments or deadlines in the organisation of this Inquiry, nor will it prejudice any parties to the Inquiry.

⁷ Wai 2200, #2.5.9, *Memorandum Directions of the Presiding Officer*, 24 September 2009.

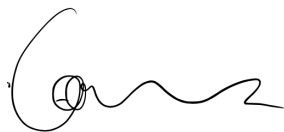
⁸ Wai 2800, #2.5.2, *Memorandum Directions of the of Presiding Officer*, 1 October 2018.

21. The Claimants have only now become aware of this Inquiry and obtained legal counsel to progress the Claim.
22. For completeness it is noted that the Muaūpoko Tribal Authority have sought a mandate to settle all claims for the iwi of Muaūpoko and its hapū. However, those negotiations are not currently underway, but have been placed on hold. It is understood that this claim is one of those claims which would likely be settled were that negotiation to resume and lead to a settlement.
23. The most recent Directions of the Presiding-Officer asked for further submissions on issues raised in memorandum filed, and those were expected to be filed on July 2019.⁹
24. There have been no further Directions issued on how this Inquiry might progress or which claims might be eligible.
25. It is submitted that given the very early stage of the progress of this Inquiry, that this Claim can be added, should it be seen as eligible, without any undue impact on the Inquiry as a whole.

Notice of Counsel Acting

26. Instructions have been received by Mario William Hori Te Pa and Tanua Helen Rose. Maria Rakapa Tukapua-Lomax has passed away, and the remaining two Claimants plan to work with her whānau to select a new representative from her whānau to add as a named claimant for this Claim.
27. The address for service on the Claimants is;
 - a. By email to cameron@hockly.co.nz; or
 - b. By post to Hockly Legal, PO Box 59211, Mangere Bridge, Auckland 2151.

Dated at Tāmaki Makaurau this Monday the 9th day of September 2019



Cameron Hockly, Brooke Loader

Counsel for the Claimants

⁹ Wai 2800, #2.5.4, *Memorandum Directions of the Presiding Officer*, dated 12 June 2019.